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HOUSE BILL 963

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Joseph Cervantes

AN ACT

RELATING TO MOTOR VEHICLES; DIFFERENTIATING PENALTIES FOR
DRIVING WITH A REVOKED DRIVER'S LICENSE AND DRIVING WITH A
SUSPENDED DRIVER'S LICENSE; REQUIRING A PARENT OR GUARDIAN TO
ACCOMPANY A MINOR APPEARING IN COURT ON CERTAIN OFFENSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 66-5-39 NMSA 1978 (being Laws 1978,
Chapter 35, Section 261, as amended) is amended to read:

"66-5-39. DRIVING WHILE LICENSE [~~SUSPENDED OR~~] REVOKED--
PROVIDING PENALTIES. --

A. Any person who drives a motor vehicle on any
public highway of this state at a time when his privilege to do
so is [~~suspended or~~] revoked and who knows or should have known
that his license was [~~suspended or~~] revoked is guilty of a
misdemeanor and shall be charged with a violation of this

underscored material = new
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1 section. Upon conviction, the person shall be punished,
2 notwithstanding the provisions of Section 31-18-13 NMSA 1978,
3 by imprisonment for not less than four days or more than three
4 hundred sixty-four days or participation for an equivalent
5 period of time in a certified alternative sentencing program,
6 and there may be imposed in addition a fine of not more than
7 one thousand dollars (\$1,000). When a person pays any or all
8 of the cost of participating in a certified alternative
9 sentencing program, the court may apply that payment as a
10 deduction to any fine imposed by the court. Notwithstanding
11 any other provision of law for suspension or deferment of
12 execution of a sentence, if the person's privilege to drive was
13 revoked for driving while under the influence of intoxicating
14 liquor or drugs or a violation of the Implied Consent Act, upon
15 conviction under this section, that person shall be punished by
16 imprisonment for not less than seven consecutive days and shall
17 be fined not less than three hundred dollars (\$300) or not more
18 than one thousand dollars (\$1,000) and the fine and
19 imprisonment shall not be suspended, deferred or taken under
20 advisement. No other disposition by plea of guilty to any
21 other charge in satisfaction of a charge under this section
22 shall be authorized if the person's privilege to drive was
23 revoked for driving while under the influence of intoxicating
24 liquor or drugs or a violation of the Implied Consent Act. Any
25 municipal ordinance prohibiting driving with a [~~suspended or~~]

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1 revoked license shall provide penalties no less stringent than
2 provided in this section.

3 B. In addition to any other penalties imposed
4 pursuant to the provisions of this section, when a person is
5 convicted pursuant to the provisions of this section or a
6 municipal ordinance that prohibits driving on a [~~suspended or~~]
7 revoked license, the motor vehicle the person was driving shall
8 be immobilized by an immobilization device for thirty days,
9 unless immobilization of the motor vehicle poses an imminent
10 danger to the health, safety or employment of the convicted
11 person's immediate family or the family of the owner of the
12 motor vehicle. The convicted person shall bear the cost of
13 immobilizing the motor vehicle.

14 C. The division, upon receiving a record of the
15 conviction of any person under this section upon a charge of
16 driving a vehicle while the license of the person was
17 [~~suspended, shall extend the period of suspension for an~~
18 ~~additional like period, and if the conviction was upon a charge~~
19 ~~of driving while a license was]~~ revoked, [~~the division~~] shall
20 not issue a new license for an additional period of one year
21 from the date the person would otherwise have been entitled to
22 apply for a new license. "

23 Section 2. A new section of the Motor Vehicle Code,
24 Section 66-5-39.1 NMSA 1978, is enacted to read:

25 "66-5-39.1. [NEW MATERIAL] DRIVING WHILE LICENSE

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1 SUSPENDED-- PROVIDING PENALTIES. --

2 A. Any person who drives a motor vehicle on any
3 public highway of this state at a time when his privilege to do
4 so is suspended and who knows or should have known that his
5 license was suspended is guilty of a petty misdemeanor and
6 shall be charged with a violation of this section. Upon
7 conviction, the person shall be punished, notwithstanding the
8 provisions of Section 31-18-13 NMSA 1978, by a fine of not more
9 than three hundred dollars (\$300). Upon a second or subsequent
10 conviction pursuant to this section, notwithstanding the
11 provisions of Section 31-18-13 NMSA 1978, the person shall be
12 imprisoned for not less than two days or more than ninety days
13 or shall participate for an equivalent period of time in a
14 certified alternative sentencing program. In addition, a fine
15 of not more than three hundred dollars (\$300) may be imposed by
16 the court.

17 B. The division, upon receiving a record of the
18 conviction of any person under this section upon a charge of
19 driving a vehicle while the license of the person was
20 suspended, shall extend the period of suspension for an
21 additional like period. "

22 Section 3. A new section of the Motor Vehicle Code is
23 enacted to read:

24 "[NEW MATERIAL] MINOR TO BE ACCOMPANIED BY PARENT WHEN
25 APPEARING IN METROPOLITAN, MAGISTRATE OR MUNICIPAL COURT ON

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1 CERTAIN TRAFFIC OFFENSES. -- A minor shall be accompanied by a
2 parent or guardian when appearing in metropolitan, magistrate
3 or municipal court pursuant to a traffic penalty assessment
4 misdemeanor, a traffic misdemeanor or a charge of a moving
5 violation. "

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